

**FILED**

**JUN 24 2016**

Clerk, U.S. District Court  
District Of Montana  
Missoula

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

DAVID WAYNE SCONCE,

Defendant/Movant.

Cause No. CR 12-15-M-DLC  
CV 16-36-M-DLC

ORDER

On June 1, 2016, this Court denied Defendant/Movant Sconce's motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255. On June 23, 2016, Sconce moved for reconsideration and for the appointment of counsel.

Sconce's motion for reconsideration reasserts the claims in his original § 2255 motion. It is, in effect, an unauthorized second motion under 28 U.S.C. § 2255, and this Court has no jurisdiction to entertain it. *Burton v. Stewart*, 549 U.S. 147, 149 (2007) (per curiam); *Gonzalez v. Crosby*, 545 U.S. 524, 533-34 (2005); 28 U.S.C. § 2244(b).

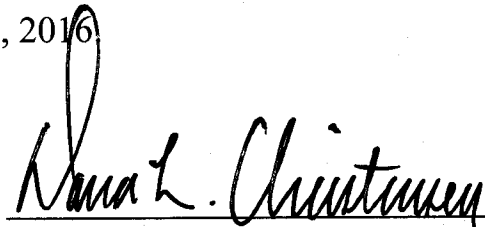
Appointment of counsel is not in the interests of justice, *see* 18 U.S.C. § 3006A(a)(2)(B), because the law does not support Sconce's claims, *see* Order (Doc. 46) at 3-4.

A certificate of appealability as to the motion to reconsider, *see United*

*States v. Winkles*, 795 F.3d 1134, 1142 (9th Cir. 2015), is not warranted. Sconce has not made a showing that he was deprived of a constitutional right in the criminal case in this Court, 28 U.S.C. § 2253(c)(2), and, consequently, reasonable jurists would find no basis for encouraging further proceedings in this matter, *Gonzalez v. Thaler*, \_\_ U.S. \_\_, 132 S. Ct. 641, 648 (2012).

Accordingly, IT IS HEREBY ORDERED that Sconce's motions to reconsider (Doc. 48) and for appointment of counsel (Doc. 48-2) are DENIED. A certificate of appealability is DENIED.

DATED this 24<sup>th</sup> day of June, 2016.

A handwritten signature in black ink, reading "Dana L. Christensen", is written over a horizontal line.

Dana L. Christensen, Chief Judge  
United States District Court